

AMENDED IN SENATE MAY 10, 2005
AMENDED IN SENATE APRIL 11, 2005
AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 711

Introduced by Senator Dutton

February 22, 2005

An act to amend Sections 38131, 38133, and 38134 of the Education Code, relating to school facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 711, as amended, Dutton. School facilities: ~~usage fees~~. *civic centers*.

Existing law, the Civic Center Act, authorizes the governing board of a school district to grant the use of school facilities or grounds as a civic center for specified purposes, including, among others, the conduct of religious services by any church or religious organization, on the condition that the use is temporary and that the church or religious organization has no suitable meeting place. Existing law also requires a governing board to charge a fee, as specified, for the use of its school facilities for the conduct of religious services by a church or religious organization. Existing law allows a school district to charge a fee, as specified, for the use of its school facilities for all of the other specified purposes.

This bill would remove those conditions and delete the requirement that a fee be charged to a church or religious organization for the use of the facilities or grounds to conduct religious services.

Existing law requires the governing board of a school district to promulgate rules and regulations regarding the management, direction, and control of school facilities, as specified.

This bill would also require the governing board of a school district to promulgate rules and regulations providing for the review of an objection to a decision regarding competing applications for the use of school facilities or grounds, as specified, thus creating a state-mandated local program. The bill would restrict the use of signage identifying an event or group that uses the school facilities, as specified. The bill would require that an advertisement or notice of the use include the name of the school and a statement that the use is not sponsored or endorsed by, or affiliated with, the school district.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 38131 of the Education Code is
2 amended to read:
3 38131. (a) There is a civic center at each and every public
4 school facility and grounds within the state where the citizens,
5 parent-teachers' associations, Camp Fire girls, Boy Scout troops,
6 farmers' organizations, school-community advisory councils,
7 senior citizens' organizations, clubs, and associations formed for
8 recreational, educational, political, economic, artistic, or moral
9 activities of the public school districts may engage in supervised
10 recreational activities, and where they may meet and discuss,
11 from time to time, as they may desire, any subjects and questions
12 which in their judgment pertain to the educational, political,
13 economic, artistic, and moral interests of the citizens of the
14 communities in which they reside.
15 (b) The governing board of any school district may grant the
16 use of school facilities or grounds as a civic center upon the
17 terms and conditions the board deems proper, subject to the

1 limitations, requirements, and restrictions set forth in this article,
2 for any of the following purposes:

3 (1) Public, literary, scientific, recreational, educational, or
4 public agency meetings.

5 (2) The discussion of matters of general or public interest.

6 (3) The conduct of religious services.

7 (4) Child care or day care programs to provide supervision and
8 activities for children of preschool and elementary schoolage.

9 (5) The administration of examinations for the selection of
10 personnel or the instruction of precinct board members by public
11 agencies.

12 (6) Supervised recreational activities including, but not limited
13 to, sports league activities for youths that are arranged for and
14 supervised by entities if the youths may participate regardless of
15 religious belief or denomination.

16 (7) A community youth center.

17 (8) Other purposes deemed appropriate by the governing
18 board.

19 *SEC. 2. Section 38133 of the Education Code is amended to*
20 *read:*

21 38133. (a) The management, direction, and control of school
22 facilities under this article are vested in the governing board of
23 the school district ~~which~~. *The governing board* shall promulgate
24 all rules and regulations necessary to provide, at a minimum, for
25 *all of the following:*

26 ~~(a) Aid, assistance, and encouragement~~

27 (1) *Technical or logistical assistance* to any of the activities
28 authorized in Sections 38131 and ~~38132~~ 38134.

29 ~~(b)~~

30 (2) Preservation of order in school facilities and on school
31 grounds, and protection of school facilities and school grounds,
32 including, if the governing board deems necessary, appointment
33 of a person who shall have charge of the school facilities and
34 grounds for purposes of their preservation and protection.

35 ~~(c) That the~~

36 (3) *The use of school facilities or grounds in a manner that is*
37 *not inconsistent with the use of the school facilities or grounds*
38 *for school purposes or interferes with the regular conduct of*
39 *schoolwork.*

(4) *The review of an objection to a decision regarding competing applications for the use of school facilities or grounds pursuant to this article. The review shall occur at the next open meeting of the governing board after receipt of the objection. A review shall include a consideration of whether alternative school facilities or grounds are available to accommodate each competing application. If alternative school facilities or grounds are not available, the governing board shall prohibit domination or entrenchment by a particular use.*

(b) *Signage or any other material identifying an event or group that uses school facilities or grounds pursuant to this article shall not obscure signage identifying the school. Signage may only be placed on school property if it is placed in a location reserved by the school for public notices that is available for use by the public.*

(c) *An advertisement or notice of the use of school facilities or grounds pursuant to this article that is provided to the public shall include the name of the school and a statement that the use is not sponsored or endorsed by, or affiliated with, the school district.*

~~SEC. 2.~~

SEC. 3. Section 38134 of the Education Code is amended to read:

38134. (a) (1) *The governing board of any school district shall authorize the use of any school facilities or grounds under its control, if an alternative location is not available, to nonprofit organizations, and clubs or associations organized to promote youth and school activities, including, but not limited to all of the following:*

~~(1) Girl Scouts, Boy Scouts, and Camp Fire, Inc.~~

~~(A) Girl Scouts; Boy Scouts; and Camp Fire, Inc.~~

~~(2)~~

~~(B) Parent-teachers' associations.~~

~~(3)~~

~~(C) School-community advisory councils.~~

~~This subdivision shall not apply to any group that uses school~~

(2) *This subdivision does not apply to a group that uses school facilities or grounds for fundraising activities that are not beneficial to youth or public school activities of the school district, as determined by the governing board.*

(b) Except as otherwise provided by law, the governing board may charge an amount not to exceed its direct costs for use of its school facilities. ~~Each~~ A governing board that decides to levy these charges shall first adopt a policy specifying which activities shall be charged an amount not to exceed direct costs.

(c) The governing board of any school district may charge an amount not to exceed its direct costs for use of its school facilities by any entity that arranges for and supervises sports league activities for youths as described in paragraph (6) of subdivision (b) of Section 38131.

(d) In the case of entertainments or meetings where admission fees are charged or contributions are solicited and the net receipts are not expended for the welfare of the pupils of the *school* district or for charitable purposes, a charge *equal to fair rental value* shall be levied for the use of school ~~facilities or grounds~~ *which charge shall be equal to fair rental value. facilities or grounds.*

(e) If ~~any~~ a group activity results in the destruction of school property, the group may be charged for an amount necessary to repay the damages, and further use of facilities may be denied.

(f) As used in this section, “direct costs” to the *school* district for the use of school facilities or grounds means those costs of supplies, utilities, janitorial services, services of ~~any other~~ *school* district employees, and salaries paid school district employees necessitated by the ~~by the entity~~ use of the school facilities and grounds of the ~~district~~ *school district by the group.*

(g) As used in this section, “fair rental value” means the direct costs to the *school* district, plus the amortized costs of the school facilities or grounds used for the duration of the activity authorized.

(h) ~~Any~~ A school district authorizing the use of school facilities or grounds under subdivision (a) is liable for ~~any~~ injuries resulting from the negligence of the *school* district in the ownership and maintenance of those facilities or grounds. ~~Any~~ An entity using school facilities or grounds under subdivision (a) is liable for any injuries resulting from the negligence of that entity during the use of those facilities or grounds. The *school* district and the entity shall each bear the cost of insuring against its respective risks and shall each bear the costs of defending itself against claims arising from those risks. Notwithstanding

1 any other provision of law, this subdivision shall not be waived.
2 This subdivision does not limit or affect the immunity or liability
3 of a school district under Division 3.6 (commencing with Section
4 810) of Title 1 of the Government Code, for injuries caused by a
5 dangerous condition of public property.

6 *SEC. 4. If the Commission on State Mandates determines that*
7 *this act contains costs mandated by the state, reimbursement to*
8 *local agencies and school districts for those costs shall be made*
9 *pursuant to Part 7 (commencing with Section 17500) of Division*
10 *4 of Title 2 of the Government Code.*